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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 21st August, 1972:—

BILL NO. 80 OF 1972

A Bill to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Antiquities and Art Treasures Act, 1972.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "antiquity" includes—

(*I*) (*i*) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;

(*ii*) any article, object or thing detached from a building or cave;

(*iii*) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(*iv*) any article, object or thing of historical interest;

(*v*) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act, which has been in existence for not less than one hundred years; and

(*II*) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;

(*b*) "art treasure" means any human work of art, not being an antiquity, declared by the Central Government by notification in the Official Gazette, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;

(*c*) "export" means taking out of India to a place outside India;

(*d*) "licensing officer" means an officer appointed as such under section 6;

(*e*) "registering officer" means an officer appointed as such under section 15;

(*f*) "prescribed" means prescribed by rules made under this Act.

(*2*) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

Regulation of export trade in antiquities and art treasures.

3. (*1*) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorized by the Central Government in this behalf, to export any antiquity or art treasure.

(*2*) Whenever the Central Government or any authority or agency referred to in sub-section (*1*) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such authority as may be prescribed.

Application of Act 52 of 1962.

4. The Customs Act, 1962, shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorized by the Central Government) is prohibited under section 3 save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorized under that Act shall be made unless the Central Government on an application made to it in this behalf, otherwise directs.

Antiquities to be sold only under a licence.

5. On and from the expiry of a period of two months of the commencement of this Act, no person shall, himself or by any other person on his behalf, carry on the business of selling or offering to sell any antiquity except under and in accordance with the terms and conditions of a licence granted under section 8.

Explanation.—In this section and in sections 7, 8, 12, 13, 14, 17 and 18 "antiquity" does not include ancient and historical records other than those declared by or under law made by Parliament to be of national importance.

Appointment of licensing officers.

6. The Central Government may, by notified order,—

(*a*) appoint such persons, being gazetted officers of Government, as it thinks fit, to be licensing officers for the purposes of this Act;

(*b*) define the limits of the area within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

Application for licence.

7. (*1*) Any person desiring to carry on, himself or by any other person on his behalf, the business of selling or offering to sell antiquities may make an application for the grant of a licence to the licensing officer having jurisdiction.

(*2*) Every application under sub-section (*1*) shall be made in such form and shall contain such particulars as may be prescribed.

Grant of licence.

8. (*1*) On receipt of an application for the grant of a licence under section 7, the licensing officer may, after holding such inquiry as he deems fit, grant a licence to the applicant having regard to the following factors, namely:—

(*a*) the experience of the applicant with respect to trade in antiquities;

(*b*) the village, town or city where the applicant intends to carry on business;

(*c*) the number of persons already engaged in the business of selling, or offering for sale of, antiquities in the said village, town or city; and

(*d*) such other factors as may be prescribed:

Provided that no licence shall be granted to the applicant if he is convicted of an offence punishable under the Antiquities (Export Control) Act, 1947 unless a period of ten years has elapsed since the date of the conviction.

31 of 1947.

(2) Every licence granted under this section shall be on payment of such fees as may be prescribed.

(3) Every licence granted under this section shall be for such period, subject to such conditions and in such form and shall contain such particulars, as may be prescribed.

(4) No application for the grant of a licence made under section 7 shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Renewal of licence.

9. (*1*) A licence granted under section 8 may, on an application made by the licensee, be renewed by the licensing officer for such period and on payment of such fees as may be prescribed.

(*2*) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Maintenance of records, photographs and registers by licensees.

10. (*1*) Every holder of a licence granted under section 8 or renewed under section 9 shall maintain such records, photographs and registers, in such manner and containing such particulars, as may be prescribed.

(*2*) Every record, photograph and register maintained under sub-section (*1*) shall, at all reasonable times, be open to inspection by the licensing officer or by any other gazetted officer of Government authorised in writing by the licensing officer in this behalf.

Revocation, suspension and amendment of licences.

11. (*1*) If the licensing officer is satisfied either on a reference made to him in this behalf or otherwise that—

(*a*) a licence granted under section 8 has been obtained by misrepresentation of an essential fact, or

(*b*) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(*2*) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 8.

Persons whose licences have been revoked may sell antiquities to other licensees.

12. Notwithstanding anything contained in section 5, any person whose licence has been revoked under section 11 may, after making a declaration before the licensing officer, within such period, in such form and in such manner, as may be prescribed, of all the antiquities in his ownership, control or possession immediately before such revocation, sell such antiquities to any other person holding a valid licence under this Act:

Provided that no such antiquity shall be sold after the expiry of a period of six months from the date of revocation of the licence.

Power of Central Government to carry on the business of selling antiquities to the exclusion of others

13. (*1*) If the Central Government is of opinion that with a view to conserving antiquities or in the public interest it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that with effect on and from such date as may be specified in the notification, the Central Government or any authority or agency authorised by the Central Government in this behalf shall alone be entitled to carry on the business of selling or offering for sale of antiquities.

(*2*) On the issue of a notification under sub-section (*1*),—

(*a*) it shall not be lawful for any person, authority or agency, other than the Central Government or any authority or agency authorized by the Central Government, to carry on the business of selling or offering for sale any antiquity on and from the date specified therein;

(*b*) the provisions of this Act, in so far as they relate to the licensing of persons carrying on the business of selling or offering for sale of antiquities shall cease to have effect except as respects things done or omitted to be done before such cesser of operation and section 6 of the General Clauses Act, 1897 shall apply upon such cesser of operation as if those provisions had been repealed by a Central Act:

10 of 1897.

Provided that every licence granted under section 8 and in force on the date aforesaid shall, notwithstanding that the period specified therein has not expired, cease to be in force.

(*3*) Every person whose licence has ceased to be in force under the proviso to clause (*b*) of sub-section (*2*) shall, within such period, in such form and in such manner as may be prescribed, make a declaration before the licensing officer of all the antiquities in his ownership, control or possession immediately before the date specified in the notification issued under sub-section (*1*).

Registration of antiquities.

14. (*1*) The Central Government may, from time to time, by notification in the Official Gazette, specify those antiquities which shall be registered under this Act.

(*2*) In specifying the antiquities under sub-section (*1*), the Central Government shall have regard to the following factors, namely:—

(*i*) the necessity for conserving the objects of art;

(*ii*) the need to preserve such objects within India for the better appreciation of the cultural heritage of India;

(*iii*) such other factors as will, or are likely to, contribute to the safeguarding of the cultural heritage of India.

(*3*) Every person who owns, controls or is in possession of any antiquity specified in the notification issued under sub-section (*1*) shall register such antiquity before the registering officer—

(*a*) in the case of a person who owns, controls or possesses such antiquity on the date of issue of such notification, within three months of such date; and

(*b*) in the case of any other person, within fifteen days of the date on which he comes into ownership, control or possession of such antiquity,

and obtain a certificate in token of such registration.

Appointment of registering officers.

15. The Central Government may, by notified order,—

(*a*) appoint such persons, as it thinks fit, to be registering officers for the purpose of this Act; and

(*b*) define the limits of the area within which a registering officer shall exercise the powers conferred on registering officers by or under this Act.

Application for registration and grant of certificate of registration.

16. (*1*) Every person required to register any antiquity before the registering officer under section 14 shall make an application to the registering officer for the grant of a certificate of registration.

(*2*) Every application under sub-section (*1*) shall be accompanied by such photographs of the antiquity which is to be registered and by such number of copies, not exceeding six, as may be prescribed and shall be made in such form and shall contain such particulars as may be prescribed.

(*3*) On receipt of an application under sub-section (*1*), the registering officer may, after holding such inquiry as he deems fit, grant a certificate of registration containing such particulars as may be prescribed.

(*4*) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

Transfer of ownership, etc., of antiquities to be intimated to the registering officer.

17. Whenever any person transfers the ownership, control or possession of any antiquity specified in any notification issued under sub-section (*1*) of section 14 such person shall intimate, within such period and in such form as may be prescribed, the fact of such transfer to the registering officer.

Provisions of sections 14, 16 and 17 and 18 apply in certain cases.

18. Nothing in section 14 or section 16 or section 17 shall apply to any antiquity kept—

(*i*) in a museum; or

(*ii*) in an office; or

(*iii*) in an archive,

owned, controlled or managed by the Government.

Power of Central Government to compulsorily acquire antiquities and art treasures.

19. (*1*) If the Central Government is of opinion that it is desirable to preserve any antiquity or art treasure in a public place, that Government may make an order for the compulsory acquisition of such antiquity or art treasure.

(*2*) On the making of an order under sub-section (*1*) the Collector of the district in which such antiquity or art treasure is kept shall give notice to the owner thereof intimating him of the decision of the Central Government to acquire the same and it shall be lawful for the Collector to take possession of such antiquity or art treasure, for which purpose the Collector may use such force as may be necessary.

(*3*) Where the owner of any antiquity or art treasure the possession of which has been taken over by the Collector under sub-section (*2*) objects to the taking over of such possession, he may, within a period of thirty days from the date on which such possession was taken over, make a representation to the Central Government putting forth his objections:

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the owner of such antiquity or art treasure was prevented by sufficient cause from making the representation in time.

(4) On receipt of any representation under sub-section (3), the Central Government, after making such inquiry as it deems fit and after giving to the objector an opportunity of being heard in the matter, shall, within a period of ninety days from the date of receipt of the representation, either rescind or confirm the order made by it under sub-section (1).

(5) Where any order made by the Central Government under sub-section (1) is rescinded under sub-section (4) the antiquity or art treasure shall be returned to the owner thereof without delay and at the expense of the Central Government.

(6) Where the order made by the Central Government under sub-section (1) is confirmed under sub-section (4) the antiquity or art treasure shall vest in the Central Government with effect from the date on which the possession thereof has been taken over by the Collector under sub-section (2).

(7) The power of compulsory acquisition conferred by this section shall not extend to any object, being an antiquity or art treasure, used for *bona fide* religious observances.

Explanation.—In this section, "public place" means any place which is open to the use of the public, whether on payment of fees or not, or whether it is actually used by the public or not.

Payment of compensation for antiquities and art treasures compulsorily acquired under section 19.

20. (1) Where any antiquity or art treasure is compulsorily acquired under section 19, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the antiquity or art treasure compulsorily acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and the provisions of sub-section (2);

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(*g*) nothing in the Arbitration Act, 1940 shall apply to arbitration under this section. 10 of 1940.

(2) While determining the compensation under sub-section (1), the arbitrator shall have regard to the following factors, namely:—

(*i*) the date or the period to which the antiquity or art treasure belongs;

(*ii*) the artistic, aesthetic, historical, architectural, archaeological or anthropological importance of the antiquity or art treasure;

(*iii*) the rarity of the antiquity or art treasure;

(*iv*) such other matters as are relevant to the dispute.

(3) The arbitrator appointed under sub-section (1), while holding arbitration proceedings under this section, shall have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) reception of evidence on affidavits;

(*d*) requisitioning any public record from any court or office;

(*e*) issuing commissions for the examination of witnesses.

Appeals against decisions of licensing officers and registering officers.

21. (1) Any person aggrieved by a decision of a licensing officer under section 8 or section 9 or section 11 or by a decision of a registering officer under section 16 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to such authority as may be prescribed:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such orders as it deems fit.

Appeals against awards of arbitrators.

22. Any person aggrieved by an award of the arbitrator made under section 20 may, within thirty days from the date on which the award is communicated to him, prefer an appeal to the High Court within whose jurisdiction he resides:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

Powers of entry, search, seizure, etc.

23. (1) Any person, being an officer of Government, authorized in this behalf by the Central Government, may, with a view to securing compliance with the provisions of this Act or to satisfying himself that the provisions of this Act have been complied with—

(*i*) enter and search any place;

(*ii*) seize any antiquity or art treasure in respect of which he suspects that any provision of this Act has been, is being, or is about to be, contravened and thereafter take all measures necessary for securing the production of the antiquity or art treasure so seized in a court and for its safe custody, pending such production.

(2) The provisions of sections 102 and 103 of the Code of Criminal Pro-
5 of 1898. cedure, 1898 relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

Power to determine whether or not an article, etc., is antiquity or art treasure.

24. If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India authorized by the Director General, Archaeological Survey of India and the decision of the Director General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final.

Penalty.

25. (*1*) If any person, himself or by any other person on his behalf, exports or attempts to export any antiquity or art treasure in contravention of section 3, he shall, without prejudice to any confiscation or penalty to
52 of 1962 which he may be liable under the provisions of the Customs Act, 1962 as applied by section 4, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(2) If any person contravenes the provisions of section 5 or section 12 or sub-section (2) or sub-section (3) of section 13 or section 14 or section 17, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both and the antiquity in respect of which the offence has been committed shall be liable to confiscation.

(3) If any person prevents any licensing officer from inspecting any record, photograph or register maintained under section 10 or prevents any officer authorized by the Central Government under sub-section (*1*) of section 23 from entering into or searching any place under that sub-section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Cognizance of offences.

26. (*1*) No prosecution for an offence under sub-section (*1*) of section 25 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf.

(2) No court shall take cognizance of an offence punishable under sub-section (2) or sub-section (3) of section 25 except upon complaint in writing made by an officer generally or specially authorized in this behalf by the Central Government.

(3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

Magistrate's power to impose enhanced penalties.

5 of 1898. **27.** Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or any Magistrate of the First Class to pass any sentence under this Act in excess of his power under section 32 of the said Code.

Offences by companies.

28. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or is intended to be done under this Act.

Application of other laws not barred.

30. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Ancient Monuments Preservation Act, 1904 or the Ancient Monuments and Archaeological Sites and Remains Act, 1958, or any other law for the time being in force. 7 of 1904. 24 of 1958.

Power to make rules.

31. (*1*) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the authority for issue of permit under sub-section (*2*) of section 3;

(*b*) the form in which an application for the grant of a licence may be made under sub-section (*1*) of section 7 and the particulars which such application shall contain;

(c) the factors to which regard may be had while granting a licence under sub-section (*1*) of section 8;

(*d*) the fees on payment of which, the period for which, the conditions subject to which and the form in which a licence may be granted under sub-section (*1*) of section 8 and the particulars which such licence shall contain;

(*e*) the fees on payment of which and the period for which a licence may be renewed under sub-section (*1*) of section 9;

(*f*) the records, photographs and registers which are to be maintained under section 10 and the manner in which such records, photographs and registers shall be maintained and the particulars which such records, photographs and registers shall contain;

(*g*) the nature of the photographs of the antiquity and the number of copies thereof which shall accompany an application for the grant of a certificate of registration to be made under sub-section (*1*) of section 16 and the form in which such application may be made and the particulars which such application shall contain;

(*h*) the particulars which a certificate of registration granted under sub-section (*3*) of section 16 shall contain;

(*i*) the authority to which an appeal may be preferred under sub-section (*1*) of section 21; and

(*j*) any other matter which has to be or may be prescribed.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1947 **32.** (*1*) The Antiquities (Export Control) Act, 1947 is hereby repealed. **Repeal.**

(*2*) For the removal of doubts it is hereby declared that every licence issued under section 3 of the Act repealed under sub-section (*1*) and in force at the commencement of this Act shall, notwithstanding that the period specified therein has not expired, cease to be in force.

33. In the Ancient Monuments and Archaeological Sites and Remains Act, 1958,— **Amendment of Act 24 of 1958.**

(*i*) in section 1, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) It extends to the whole of India.";

(*ii*) after section 2, the following section shall be inserted, namely:—

"2A. Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State."; **Construction of references to any law not in force in the State of Jammu and Kashmir.**

(*iii*) in section 23,—

(*a*) in sub-sections (*2*) and (*4*), for the words "compulsory purchase", the words "compulsory acquisition" shall be substituted;

(*b*) in sub-section (*3*), for the words "compulsory purchase of any such antiquities at their market value", the words "compulsory acquisition of any such antiquities" shall be substituted;

(*iv*) in section 26,—

(*a*) in sub-section (*1*), for the words "compulsory purchase of such antiquity at its market value", the words "compulsory acquisition of such antiquity" and for the words "to be purchased", the words "to be acquired" shall be substituted;

(b) in sub-sections (2) and (3), for the words "compulsory purchase", the words "compulsory acquisition" shall be substituted;

(*v*) in section 28, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (*3*) of section 23 or under sub-section (*1*) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 shall, so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act.".

STATEMENT OF OBJECTS AND REASONS

At present the Antiquities (Export Control) Act, 1947, provides for controlling the export of objects of antiquarian or historical interest or significance. Experience in the working of the Act has shown that in the modern set-up the provisions contained therein are not sufficient with a view to preserving objects of antiquity and art treasures in India. It is proposed to make a comprehensive law to regulate the export trade in antiquities and art treasures and to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities. It is also considered necessary to make provision in such law for the compulsory acquisition of antiquities and art treasures for preserving in public places. The present Bill is intended to achieve the above objectives.

2. The notes on clauses appended to the Bill explain in detail the more important provisions of the Bill.

NEW DELHI;

The 29th July, 1972.

S. NURUL HASAN.

Notes on clauses

Clause 2.—The definition of "antiquity" in sub-cluase (1) (a) has been amplified with a view to including therein manuscripts, records or other documents which are of scientific, historical, literary or aesthetic value and which have been in exitence for not less than 75 years.

In the definition of "art treasure" in sub-clause (1) (b) works of art of living authors thereof are excluded.

Clause 3.—Under the clause the Central Government or any authority or agency authorised by the Central Government alone will be competentn nntnonn af ercise vbgkqj cmfwpy ETAOI SHR CMFW BGK TH tent to export any antiquity or art treasure from India. Even where the Central Government or any authority or agency authorised by the Central Government intends to export any antiquity or art treasure, such export shall be made only under and in accordance with the terms and conditions of permit issued by the prescribed authority.

Clauses 5 *to* 9.—These clauses seek to regulate the internal trade in antiquity. Internal trade in antiquity can be carried on only under a licence to be issued by the licensing officer.

Clause 10.—Under the clause, every holder of a licence for carrying on any trade in antiquities is required to maintain such records, photographs and registers as may be prescribed and every such record, photograph and register shall be open to inspection by the licensing officer or by any other officer of the Government authorised by the licensing officer.

Clause 11.—The clause makes provision for revocation, suspension and amendment of licences.

Clause 12.—Under the clause any person whose licence has been revoked may, after making a declaration before the licensing officer, of all the antiquities in his control or possession immediately before such revocation, sell such antiquitties to any other person holding a valid licence. The clause further provides that no antiquity shall be sold after the expiry of a period of six months from the date of revocation of the licence.

Clause 13.—The clause empowers the Central Government to take over internal trade in antiquities with effect from a future date, to the exclusion of others.

Clauses 14 *to* 16.—These clauses make provision for registration of certain antiquities to be specified by the Ctntral Government by notification in the Official Gazette. Registration specific antiquities has been proposed with a view to having a comprehensive idea regarding the antiquiquarian wealth in the country.

Clause 17.—The clause provides that whenever any person transfers the ownership, control or possession of any antiquity which is required to be registered, he shall intimate the fact of such transfer to the registering officer.

Clause 18.—Under the clause the provision regarding registration of antiquity and intimation regarding transfer of ownership, etc., of antiquity will not apply to any antiquity that is kept in a museum or in an office or in an archive, owned, controlled or managed by the Government.

Clauses 19 *and* 20.—These clauses make provision for the compulsory acquisition of antiquities and art treasures (other than objects used for *bona fide* religious observances) and for the payment of compensation therefor.

Clauses 21 *and* 22.—These clauses make provision for appeal against the decisions of licensing officers and registering officers and for appeal against the awards of arbitrators, respectively.

Clause 24.—Under the clause the question whether or not an article, etc., is an antiquity or an art treasure is to be determined by the Director General, Archaeological Survey of India, or by an officer not below the rank of a Director in the Archaeological Survey of India authorized by the Director General, Archaeological Survey of India.

Clause 25.—Under sub-clause (1), if any person exports or attempts to export any antiquity or art treasure in contravention of the provisions of the Act, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine. Sub-clause (2) of the clause provides for penalty for carrying on trade in antiquities without a licence and for non-registration of antiquities. Sub-clause (3) provides for penalty for preventing a licensing officer from inspecting any record, etc., and for preventing any officer from entering into or searching any place.

Clause 33.—The clause makes provision for certain amendments to be made in the Ancient Monuments, Archaeological Sites and Remains Act, 1958. The amendments proposed in the clause are only of a consequential nature.

FINANCIAL MEMORANDUM

The expenditure expected to be incurred in implementing the provisions of the Bill would fall within the items mentioned below.

2. Clause 6 of the Bill provides that the Central Government may appoint such persons as may be considered necessary as licensing officers for purposes of the Bill. No person may carry on the business of selling any antiquity except in accordance with the terms and conditions of a licence granted under clause 8 of the Bill. No expenditure is expected to be incurred in the appointment of licensing officers as such, since it is the intention, as far as possible, to make use of the existing staff of the Archaeological Survey of India at each Circle of the Survey. However, as licensing of dealers would involve considerable amount of field work, it would be necessary to create a few posts of Deputy Superintending Archaeologists and Superintending Archaeologists together with supporting staff in each Circle office to assist the existing staff for effective discharge of their duties connected with the licensing work. The total expenditure on this account will work out to Rs. 1.27 lakhs per annum.

3. Clause 15 of the Bill provides for the appointment of registering officers. It would be open to the Central Government to appoint such officers either from the Central Government itself or the State Governments. It is proposed to entrust the work of registration to officers of the State Governments. Consequently, the Central Government may have to reimburse the State Governments the expenditure on account of the appointment of a registering officer for each district or a group of districts as also the expenditure on account of the supporting staff plus accommodation, equipments, stationery, etc. This would need to be negotiated with the State Governments and it would not, therefore, be possible to estimate the expenditure in precise terms at this stage. The circle offices of the Archaeological Survey of India would, however, require some staff for dealing with correspondence with the State authorities. The expenditure on this account would be of the order of Rs. 36,000 per annum.

4. Clause 20 of the Bill provides for payment of compensation where any antiquity or art treasure is compulsorily acquired under clause 19 of the Bill. Clause 20 also provides for appointment of arbitrators where the quantum of compensation is in dispute. The precise expenditure which might be incurred on account of the payment of compensation or for the appointment of arbitrators, cannot be estimated at this stage since this will depend on the nature of the antiquity or art treasure acquired and also on the number of disputes.

5. Under clause 24 of the Bill, the power to determine whether or not an article is an antiquity or an art treasure is vested in the Director General, Archaeological Survey of India, or in an officer not below the rank of the Director in the Archaeological Survey of India authorized by the Director General, Archaeological Survey of India. The Director General would be assisted by a committee of experts to dispose of references made to the Director General in such cases. The members of the expert committee will have to be paid travelling allowance and daily allowance. It has been estimated that the expenditure may roughly work out to Rs. 28,000 per annum.

6. A small increase in staff would be necessary at the Headquarters in the administration of the provisions of the Bill. The estimated expenditure in this regard works out to approximately Rs. 50,000 per annum.

7. The total expenditure as could be estimated at this stage will be of the order of Rs. 2.42 lakhs per annum.

8. There will be no non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 31 of the Bill empowers the Central Government to make rules for the purpose of giving effect to the provisions of the Act. Sub-clause (2) of the clause enumerates the various matters with respect to which rules may be made. The matters referred to in that sub-clause *inter alia* include the authority for issue of permit under sub-clause (2) of clause 3, the form in which an application for the grant of a licence may be made under sub-clause (1) of clause 7, the factors to which regard may be had by the licensing officer for granting a licence under sub-clause (1) of clause 8, the records, photographs and registers which are to be maintained under clause 10 and the manner in which such records, photographs and registers shall be maintained and the particulars which such records, photographs and registers shall contain.

2. The matters with respect to which rules can be made under clause 31 are matters of procedure or administrative detail and it is hardly possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 82 OF 1972

A Bill further to amend certain enactments consequent on derecognition of Rulers of Indian States and abolition of privy purses, so as to abolish the privileges of Rulers and to make certain transitional provisions to enable the said Rulers to adjust progressively to the changed circumstances.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Rulers of Indian States (Abolition of Privileges) Act, 1972. Short title and commencement.

(*2*) Save as otherwise provided in this Act, it shall come into force at once.

2. In section 197A of the Code of Criminal Procedure, 1898,— Amendment of Act 5 of 1898.

(*a*) in sub-section (*1*), for clause (*b*), the following clauses shall be substituted, namely:—

'(*b*) "commencement of the Constitution" means the 26th day of January, 1950; and

(*c*) "Ruler", in relation to a former Indian State, has the same meaning as in article 363 of the Constitution.';

(*b*) in sub-section (*2*), after the words "Ruler of a former Indian State", the words "before the commencement of the Constitution" shall be inserted;

(c) in sub-section (*3*), after the words "Ruler of a former Indian State", the words "for such offence" shall be inserted.

Amendment of Act 5 of 1908.

3. In section 87B of the Code of Civil Procedure, 1908,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) In the case of any suit by or against the Ruler of any former Indian State which is based wholly or in part upon a cause of action which arose before the commencement of the Constitution or any proceeding arising out of such suit, the provisions of section 85 and sub-sections (*1*) and (*3*) of section 86 shall apply in relation to such Ruler as they apply in relation to the Ruler of a foreign State.";

(*b*) in sub-section (*2*),—

(*i*) the word "and" at the end of clause (*a*) shall be omitted;

(*ii*) for clause (*b*), the following clauses shall be substituted, namely:—

'(*b*) "commencement of the Constitution" means the 26th day of January, 1950; and

(*c*) "Ruler", in relation to a former Indian State, has the same meaning as in article 363 of the Constitution.'.

Amendment of Act 43 of 1951.

4. Section 168 of the Representation of the People Act, 1951, shall be omitted.

Amendment of Act 27 of 1957.

5. In the Wealth-tax Act, 1957, in section 5, in sub-section (*1*),—

(*a*) in clause (*iii*), for the words "any one building in the occupation of a Ruler declared by the Central Government as his official residence", the words, brackets and figures "any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was his official residence by virtue of a declaration by the Central Government" shall be substituted with effect from the 28th day of December, 1971;

(*b*) to clause (*xiv*), the following provisos shall be added, namely:—

"Provided that in the case of jewellery recognised by the Central Government as aforesaid, such recognition shall be subject to the following conditions, namely:—

(*i*) that the jewellery shall be permanently kept in India and shall not be removed outside India except for a purpose and period approved by the Board;

(*ii*) that reasonable steps shall be taken for keeping the jewellery substantially in its original shape;

(*iii*) that reasonable facilities shall be allowed to any officer of Government authorised by the Board in this behalf to examine the jewellery as and when necessary; and

(*iv*) that if any of the conditions hereinbefore specified is not being duly fulfilled, the Board may, for reasons to be recorded in writing, withdraw the recognition retrospectively with effect from the date of commencement of clause (*b*) of section 5 of the Rulers of Indian States (Abolition of Privileges) Act, 1972 and in such a case, wealth-tax shall become payable by the Ruler for all the assessment years after such commencement for which the jewellery was exempted on account of the recognition.

Explanation.—For the purposes of clause (*iv*) of the foregoing proviso, the fair market value of any jewellery on the date of the withdrawal of the recognition in respect thereof shall be deemed to be the fair market value of such jewellery on each successive valuation date relevant for the assessment years referred to in the said proviso:

Provided further that the aggregate amount of wealth-tax payable in respect of any jewellery under clause (*iv*) of the foregoing proviso for all the assessment years referred to therein shall not in any case exceed fifty per cent. of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn;".

Amendment of Act 18 of 1958.

6. In section 5 of the Gift-tax Act, 1958, in sub-section (*1*), clause (*xvi*) shall be omitted with effect from the 1st day of April, 1973.

Amendment of Act 43 of 1961.

7. In the Income-tax Act, 1961,—

(*a*) in section 10,—

(*i*) after clause (*18*), the following clause shall be inserted, namely:—

"(*18A*) any *ex gratia* payments made by the Central Government consequent on the abolition of privy purse;";

(*ii*) clause (*19*) shall be omitted with effect from the 2nd day of April, 1973;

(*iii*) before clause (*20*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 28th day of December, 1971, namely:—

"(*19A*) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was

exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949 or the Part B States (Taxation Concessions) Order, 1950 or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;";

(*b*) in section 297, in sub-section (*2*),—

(*i*) in clause (*l*), the words "until rescinded by the Central Government" shall be omitted;

(*ii*) to clause (*l*) as so amended, the following proviso shall be added, namely:—

"Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder;".

STATEMENT OF OBJECTS AND REASONS

With the derecognition of Rulers and the abolition of privy purse, the historical considerations on the basis of which special privileges were given to Rulers of Indian States have ceased to be valid and the indefinite continuance of those privileges would be indefensible. However, in order to enable the former Rulers to adjust progressively to the changed circumstances on account of the abolition of privy purse, it appears necessary to make special provisions. Some of the privileges of the former Rulers have been provided for by certain enactments. This Bill seeks to amend those enactments in the manner below.

2. The immunity of a Ruler of an Indian State from criminal prosecution or civil suit under the Code of Criminal Procedure, 1898 and the Code of Civil Procedure, 1908 is being limited to acts and omissions of such Ruler before the 26th January, 1950 (clauses 2 and 3 of the Bill), and by way of consequential change, section 168 of the Representation of the People Act, 1951 is being omitted (clause 4 of the Bill).

3. The exemptions under the Wealth Tax Act, 1957 in respect of the one official residence and heirloom jewellery of each former Ruler is being limited for his lifetime. Further, the exemption in respect of heirloom jewellery recognised by the Central Government is being made subject to conditions similar to those applicable at present in the case of heirloom jewellery recognised by the Central Board of Direct Taxes (clause 5 of the Bill).

4. The existing exemption under the Gift-tax Act, 1958 in respect of the gifts made out of privy purse is being withdrawn (clause 6 of the Bill).

5. It is also proposed to amend the Income-tax Act, 1961 to provide for exemption of any *ex gratia* payments made by the Central Government consequent on the abolition of the privy purse and for the omission of the provision providing for exemption in respect of privy purse. Power is being taken to amend certain notifications issued under section 60A of the Indian Income-tax Act, 1922 and continued by section 297 of the Income-tax Act, 1961, with a view to suitably modifying the notifications in so far as they relate to exemptions in favour of Rulers (clause 7 of the Bill).

H. R. GOKHALE.

NEW DELHI;
The 14th August, 1972.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (b) of clause 7 of the Bill seeks to amend clause (1) of sub-section (2) of section 297 of the Income-tax Act, 1961 to confer power on the Central Government to amend certain notifications issued by that Government under the Indian Income-tax Act, 1922. The said clause (1) provides that the said notifications shall continue in force until rescinded by the Central Government. The power to amend the said notifications is necessary for the purpose of suitably modifying the notifications in so far as they relate to exemptions in favour of Rulers. In the circumstances, the delegation of legislative power is of a normal character.

BILL NO. 83 OF 1972

A Bill further to amend the Mines and Minerals (Regulation and Development) Act, 1957.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Mines and Minerals (Regulation and Development) Amendment Act, 1972. Short title.

67 of 1957. 2. In the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the principal Act), after section 4, the following section shall be inserted, namely:— Insertion of new section 4A.

"4A. (1) Where the Central Government, after consultation with the State Government, is of opinion that it is expedient in the interest of regulation of mines and mineral development so to do, it may request the State Government to make a premature termination of a mining lease in respect of any mineral, other than a minor mineral, and, on receipt of such request, the State Government shall make an order making a premature termination of such mining lease Termination of mining leases.

and granting a fresh mining lease in favour of such Government company or corporation owned or controlled by Government as it may think fit.

(2) The State Government may, if it is of opinion that it is expedient in the interest of regulation of mines and mineral development so to do, by an order, make premature termination of a mining lease in respect of any minor mineral and grant a fresh lease in respect of such mineral in favour of such Government company or corporation owned or controlled by Government as it may think fit.".

Amendment of section 6.

3. In section 6 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No person shall acquire in any one State in respect of any mineral or prescribed group of associated minerals—

(*a*) one or more prospecting licences covering a total area of more than fifty square kilometres; or

(*b*) one or more mining leases covering a total area of more than ten square kilometres:

Provided that if the Central Government is of opinion that in the interests of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded by it in writing, permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the aforesaid total area;

(c) any lease or licence in respect of an area which is not compact or contiguous:

Provided that if the Central Government is of opinion that in the interests of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire a prospecting licence or mining lease in relation to any area which is not compact or contiguous.";

(*ii*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(*3*) For the purposes of determining the total area referred to in sub-section (*1*), the area held under a prospecting licence or mining lease by a person as a member of a co-operative society, company or other corporation, or a Hindu undivided family or a partner of a firm, shall be deducted from the area referred to in sub-section (*1*) so that the sum total of the area held by such person, under a prospecting licence or mining lease, whether as such member or partner, or individually, may not, in any case, exceed the total area specified in sub-section (*1*).".

Amendment of section 9.

4. In section 9 of the principal Act,—

(*i*) in sub-sections (*1*) and (*2*), for the words "mineral removed by him", wherever they occur, the words "mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall not be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery provided that such consumption by the workman does not exceed one-third of a tonne per month.";

(*iii*) in sub-section (*3*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of four years.".

Insertion of new section 9A.

5. After section 9 of the principal Act, the following section shall be inserted, namely:—

Dead rent to be paid by the lessee.

"9A. (*1*) The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall, notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay to the State Government, every year, dead rent at such rate as may be specified, for the time being, in the Third Schedule, for all the areas included in the instrument of lease:

Provided that where the holder of such mining lease becomes liable, under section 9, to pay royalty for any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater.

(*2*) The Central Government may, by notification in the Official Gazette, amend the Third Schedule so as to enhance or reduce the rate at which the dead rent shall be payable in respect of any area covered by a mining lease and such enhancement or reduction shall take effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of four years.".

Insertion of new section 13A.

6. After section 13 of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to make rules for the grant of prospecting licences or mining leases in respect of territorial waters or continental shelf of India.

"13A. (*1*) The Central Government may, by notification in the Official Gazette, make rules for the grant of prospecting licences or mining leases in respect of any minerals underlying the ocean within the territorial waters or the continental shelf of India.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the conditions, limitations and restrictions subject to which such prospecting licences or mining leases may be granted;

(*b*) regulation of exploration and exploitation of minerals within the territorial waters or the continental shelf of India;

(*c*) ensuring that such exploration or exploitation does not interfere with navigation; and

(*d*) any other matter which is required to be, or may be, prescribed.".

Amendment of section 14.

7. In section 14 of the principal Act, for the words "prospecting licences and mining leases", the words "quarry leases, mining leases or other mineral concessions" shall be substituted.

Amendment of section 15.

8. In section 15 of the principal Act,—

(*i*) in sub-sections (*1*) and (*2*), for the words "prospecting licences and mining leases", wherever they occur, the words "quarry leases, mining leases or other mineral concessions" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

"(*3*) The holder of a mining lease or any other mineral concession granted under any rule made under sub-section (*1*) shall pay royalty in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rules framed by the State Government in respect of minor minerals:

Provided that the State Government shall not enhance the rate of royalty in respect of any minor mineral for more than once during any period of four years.".

Amendment of section 16.

9. In section 16 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) (*a*) All mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, if in force at such commencement, shall be brought into conformity with the provisions of this Act, and the rules made thereunder, within six months from such commencement, or such further time as the Central Government may, by general or special order, specify in this behalf.

(*b*) Where the rights under any mining lease, granted by the proprietor of an estate or tenure before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, have vested, on or after the 25th day of October, 1949, in the State Government in pursuance of the provisions of any Act of any Provincial or State Legislature which provides for the acquisition of estates or tenures or provides for agrarian reform, such mining lease shall be brought into conformity with the provisions of this Act and the rules made thereunder within six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, or within such further time as the Central Government may, by general or special order, specify in this behalf.".

Amendment of section 17.

10. In section 17 of the principal Act, in sub-section (*1*),—

(*i*) the word "only" shall be omitted;

(*ii*) after the words "Government of a State", the words "or any other person" shall be inserted.

11. After section 18 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 18A.

"18A. (*1*) Where the Central Government is of opinion that for the conservation and development of minerals in India, it is necessary to collect as precise information as possible with regard to any mineral available in or under any land in relation to which any prospecting licence or mining lease has been granted, whether by the State Government or by any other person, the Central Government may authorise the Geological Survey of India, or such other authority or agency as it may specify in this behalf, to carry out such detailed investigations for the purpose of obtaining such information as may be necessary: Power to authorise Geological Survey of India, etc., to make investigation.

Provided that in the cases of prospecting licences or mining leases granted by a State Government, no such authorisation shall be made except after consultation with the State Government.

(*2*) On the issue of any authorisation under sub-section (*1*), it shall be lawful for the Geological Survey of India or the specified authority or agency, and its servants and workmen—

(*a*) to enter upon such land,

(*b*) to dig or bore into the sub-soil,

(c) to do all other acts necessary to determine the extent of any mineral available in or under such land,

(*d*) to set out boundaries of the land in which any mineral is expected to be found,

(*e*) to mark such boundaries and line by placing marks,

(*f*) where otherwise the survey cannot be completed on the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no such authority or agency shall enter into any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of its intention to do so.

(*3*) Whenever any action of the nature specified in sub-section (*2*) is to be taken, the Central Government shall, before or at the time when such action is taken, pay or tender payment for all necessary damage which is likely to be caused, and in case of dispute as to the sufficiency of the amount so paid or tendered or as to the person to whom it should be paid or tendered, the Central Government shall refer the dispute to the principal civil court of original jurisdiction having jurisdiction over the land in question.

(*4*) The fact that there exists any such dispute as is referred to in sub-section (*3*) shall not be a bar to the taking of any action under sub-section (*2*).

(*5*) After the completion of the investigation, the Geological Survey of India or the specified authority or agency by which the investigation was made shall submit to the Central Government a detailed report indicating therein the extent and nature of any mineral which lies deposited in or under the land.

(6) The costs of the investigation made under this section shall be borne by the Central Government:

Provided that where the State Government or other person in whom the minerals are vested or the holder of any prospecting licence or mining lease applies to the Central Government to furnish to it or him a copy of the report submitted under sub-section (5), that State Government or other person or the holder of a prospecting licence or mining lease, as the case may be, shall bear such reasonable part of the costs of investigation as the Central Government may specify in this behalf and shall, on payment of such part of the costs of investigation, be entitled to receive from the Central Government a true copy of the report submitted to it under sub-section (5).".

Amendment of section 21.

12. In section 21 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Whoever contravenes the provisions of sub-section (*1*) of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.";

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) Where any person trespasses into any land in contravention of the provisions of sub-section (*1*) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

(*4*) Whenever any person raises, without any lawful authority, any mineral from any land, and, for that purpose, brings on the land any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or other thing shall be liable to be seized by a magistrate specially empowered in this behalf.

(*5*) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.".

Insertion of new section 23A.

13. After section 23 of the principal Act, the following section shall be inserted, namely:—

Compounding of offences.

"23A. (*1*) Any offence punishable under this Act or any rule made thereunder may, either before or after the institution of the prosecution, be compounded by the person authorised under section 22 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as that person may specify:

Provided that in the case of an offence punishable with fine only, no such sum shall exceed the maximum amount of fine which may be imposed for that offence.

(2) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith.".

Amendment of section 25.

14. Section 25 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Any rent, royalty, tax, fee or other sum due to the Government either under this Act or any rule made thereunder or under the terms and conditions of any prospecting licence or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as if it were an arrear of land revenue and every such sum which becomes due to the Government after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, together with the interest due thereon, shall be a first charge on the assets of the holder of the prospecting licence or mining lease, as the case may be.".

Amendment of section 28.

15. In section 28 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Every rule and every notification made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.".

Insertion of Third Schedule.

16. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely: –

"THE THIRD SCHEDULE

(*See* section 9A)

DEAD RENT

Period of the mining lease	*Rate of dead rent per hectare*
1. 1st year	*Nil*
2. 2nd year to 5th year	Rs. 12·50
3. 6th year to 10th year	Rs. 25·00
4. 11th year onwards	Rs. 37·50.".

STATEMENT OF OBJECTS AND REASONS

Over fourteen years have elapsed since the Mines and Minerals (Regulation and Development) Act, 1957 came into force. In course of these years, large strides have been made in the development of mines and minerals in the country. The production tasks before the nation in the fields of steel, non-ferrous metals, fertilizers, chemicals, power generation etc. call for measures for systematic and massive utilisation of the natural resources of the country.

2. The Mineral Advisory Board has from time to time reviewed the working of the Mines and Minerals (Regulation and Development) Act, 1957 and made recommendations for amending some of the existing provisions and the introduction of new provisions covering certain areas not so far dealt with in the Act. These recommendations cover the following principal points:—

(*i*) imposition of a ceiling on individual holdings of prospecting licences and mining leases;

(*ii*) imposition of a specific obligation on holders of mining leases in respect of payment of royalty for minerals removed by their agents, sub-lessees, or employees;

(*iii*) provision of a statutory basis for calculation of dead rent;

(*iv*) introduction of regulations governing mineral concessions in respect of minerals underlying the ocean within the territorial waters or the continental shelf of India;

(*v*) application of Minor Mineral Rules to quarry leases;

(*vi*) provision for modification of mining leases granted by former landlords before the vesting of their estates under land reform enactments;

(*vii*) enhancement of penalties for infringement of Mineral Concession Rules and compounding of offences;

(*viii*) assumption of power by Government to authorise investigation for minerals in lands in respect of which the minerals vest in private persons;

(*ix*) assumption of power by Government to authorise investigation for minerals in lands already held under prospecting licence or mining lease; and

(*x*) creation of a first charge on the assets of the holder of a mineral concession on account of mining dues.

3. The Conference of State Government Ministers of Mining and Geology held on the 27th July, 1972, further recommended that in the interests of mineral development, Government should assume powers for termination of an existing mining lease so as to enable mineral development of that area by a Government company or corporation owned or controlled by Government.

NEW DELHI;
The 11th August, 1972. S. MOHAN KUMARAMANGALAM.

FINANCIAL MEMORANDUM

The insertion of new section 18A (*vide* clause 11 of the Bill) would have the effect of increasing the extent of areas in which the Geological Survey of India or other agencies authorised by the Central Government may operate for the purpose of mineral exploration and investigations. According to sub-section (6) of that section, the cost of such investigations are to be borne by the Central Government. It is not possible to estimate accurately the expenditure which is likely to be incurred by reason of such additional activities. But it is estimated that the recurring annual expenditure on such additional exploratory activities is likely to be of the order of rupees 2.25 crores.

2. The Bill, if enacted, would not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to amend the Third Schedule so as to enhance or reduce the rate at which dead rent shall be payable in respect of any area covered by a mining lease, through a notification in the Official Gazette, and clause 6 of the Bill empowers the Central Government to make rules for the grant of prospecting licences or mining leases in respect of any land or minerals underlying the ocean within the territorial waters or continental shelf of India.

The matters in respect of which the amendment or rule may be made are matters of detail within the scope of the general provisions of the Bill and it is not practicable to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

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